

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Civil No. 05-490 (DSD/FLN)

Miguel Checo,

Petitioner,

v.

**ORDER**

W.I. LeBlanc, Jr.

Respondent.

This matter is before the court upon petitioner's objections to the report and recommendation of United States Magistrate Judge Franklin L. Noel, dated March 15, 2005. In his report, the magistrate judge concluded that petitioner's application for habeas corpus relief should be dismissed.

The court reviews the reports and recommendations of the magistrate judge de novo. 28 U.S.C. § 636(b)(1)(C). After a thorough review of the entire file and record, the court finds that the magistrate judge's report and recommendation is well-reasoned and correctly applies the law to petitioner's claim brought under 28 U.S.C. § 2241. Contrary to petitioner's objection, the magistrate judge correctly concluded that the new constitutional rules of criminal procedure set forth in Blakely and Booker do not apply retroactively to matters on collateral review. See Never Misses A Shot v. United States, -- F.3d --, 2005 WL 1569403, at \*2 (8th Cir. July 7, 2005) (per curiam) ("Booker does not apply to criminal convictions that became final before the rule was

announced." ). Therefore, the court adopts the report and recommendation of the magistrate judge in its entirety.

Accordingly, **IT IS HEREBY ORDERED** that petitioner's application for habeas corpus relief under 28 U.S.C. § 2241 [Doc. No. 1] is summarily dismissed.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: August 2, 2005

s/David S. Doty  
David S. Doty, Judge  
United States District Court